

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2853

PETITION OF EMILIOS DIMITRIADIS

OPINION OF THE BOARD

(Opinion Adopted February 27, 2013)
(Effective Date of Opinion: March 1, 2013)

Case No. S-2853 is an application for a special exception, under Section 59-G-2.00 of the Zoning Ordinance, to permit an accessory apartment. The subject property is Lot 8, Block 11, Wildwood Manor Subdivision, located at 10349 St. Albans Drive, Bethesda, Maryland 20814 in the R-90 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on January 3, 2013, closed the record in the case on January 14, 2013, and on February 13, 2013, issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception Granted Based Upon
the Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on February 27, 2013. After careful consideration and review of the record, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner is bound by his testimony, representations and exhibits of record, to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in this Opinion;
2. The Petitioner must comply with all of the conditions set forth in the Memorandum of Lynn McCreary, Housing Code Inspector, Division of Housing and Code Enforcement dated October 26, 2012 (Exhibit 15):

1. A walkway to the proposed accessory apartment must be installed and maintained in good, serviceable and safe condition.
 2. A 36-inch clearance is required around the electrical panel box located in the kitchen of the accessory apartment.
 3. All circuits in the electrical panel box must be properly labeled.
 4. The refrigerator must be relocated with a dedicated 20-amp circuit and all appropriate permits must be obtained and finalized.
 5. The accessory apartment must have a standard interior lockable door to provide privacy from the main portion of the house.
 6. The light fixture in the utility room must be in safe condition and good repair.
 7. A hard-wired with battery back up smoke detector must be properly installed in the accessory apartment.
 8. The damaged carpet located in the living area of the accessory apartment must be repaired or replaced in a professional, workmanlike manner to eliminate a tripping hazard.
 9. The damaged storm door at the entry of the accessory apartment must be either removed or replaced in a professional, workmanlike manner.
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3. Occupancy must be limited to a family of three or two unrelated individuals and Petitioner must comply with any other directions of the Housing Code Inspectors to ensure safe and code-compliant occupancy;
 4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
 5. Petitioner must not receive compensation for the occupancy of more than one dwelling unit; and
 6. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by John H. Pentecost, with Stanley B. Boyd and David K. Perdue, Vice Chair in agreement, and Catherine G. Titus, Chair, necessarily absent, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



David K. Perdue
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 1st day of March, 2013.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

